

HOUSE BILL 912

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2004 Regular Session
4r1369
CF 4r1754

By: **Delegates Barve, Boutin, Bozman, Bronrott, Cane, G. Clagett, Conroy, Conway, Edwards, Frush, Gaines, Gordon, Healey, Kelly, King, Madaleno, Malone, McComas, McConkey, McKee, Moe, Montgomery, Myers, Owings, Ross, Rudolph, Shank, Smigiel, Sossi, Stull, Taylor, and Weldon**

Introduced and read first time: February 11, 2004
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Municipal Corporations - Annexations - Limitations on Uses of Land and**
3 **Densities of Development**

4 FOR the purpose of authorizing a county, as a condition of approving an annexation of
5 land by a municipal corporation, to require the municipal corporation to limit
6 the uses of land or densities of development of the annexed land in a certain
7 manner; authorizing a municipal corporation to provide in an annexation
8 resolution for the special treatment of the residents and property in the area to
9 be annexed as to allowable uses of land and densities of development under
10 certain circumstances; authorizing a municipal corporation and a property
11 owner to enter into an agreement that imposes conditions on the future use and
12 development of the area to be annexed under certain circumstances; authorizing
13 a local legislative body to impose certain limitations on the uses of land or
14 densities of development in an annexation agreement on the zoning or rezoning
15 of land under certain circumstances; establishing a certain exception to a certain
16 provision regarding uniformity of regulations within a zoning district; and
17 generally relating to limitations on uses of land and densities of development on
18 land annexed by municipal corporations.

19 BY repealing and reenacting, with amendments,
20 Article 23A - Corporations - Municipal
21 Section 9(c) and 19(n)
22 Annotated Code of Maryland
23 (2001 Replacement Volume and 2003 Supplement)

24 BY adding to
25 Article 23A - Corporations - Municipal
26 Section 19(t)
27 Annotated Code of Maryland
28 (2001 Replacement Volume and 2003 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article 66B - Land Use
3 Section 4.01(c)(1) and 4.02
4 Annotated Code of Maryland
5 (2003 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article 23A - Corporations - Municipal**

9 9.

10 (c) (1) (I) A municipal corporation which is subject to the provisions of
11 Article XI-E of the Maryland Constitution may not amend its charter or exercise its
12 powers of annexation, incorporation or repeal of charter as to affect or impair in any
13 respect the powers relating to sanitation, including sewer, water and similar facilities,
14 and zoning, of the Washington Suburban Sanitary Commission or of the
15 Maryland-National Capital Park and Planning Commission.

16 (II) Except that where any area is annexed to a municipality
17 authorized to have and having then a planning and zoning authority, the municipality
18 shall have exclusive jurisdiction over planning and zoning and subdivision control
19 within the area annexed; provided nothing in this exception shall be construed or
20 interpreted to grant planning and zoning authority or subdivision control to a
21 municipality not authorized to exercise that authority at the time of such annexation;
22 and further provided, that no municipality annexing land may for a period of five
23 years following annexation, place that land in a zoning classification which permits a
24 land use substantially different from the use for the land specified in the current and
25 duly adopted master plan or plans or if there is no adopted or approved master plan,
26 the adopted or approved general plan or plans of the county or agency having
27 planning and zoning jurisdiction over the land prior to its annexation without the
28 express approval of the board of county commissioners or county council of the county
29 in which the municipality is located. NOTWITHSTANDING ANY PROVISION OF
30 ARTICLE 66B OF THE CODE THAT MAY REQUIRE USES OF LAND OR DENSITIES OF
31 DEVELOPMENT TO BE UNIFORM WITHIN EACH ZONING DISTRICT, THE BOARD OF
32 COUNTY COMMISSIONERS OR COUNTY COUNCIL, AS A CONDITION OF APPROVING AN
33 ANNEXATION OF LAND BY A MUNICIPALITY, MAY REQUIRE THE MUNICIPALITY TO
34 LIMIT THE USES OR DENSITIES OF THE ANNEXED LAND TO FEWER THAN ALL OF THE
35 USES OR DENSITIES OTHERWISE ALLOWED UNDER THE ZONING CLASSIFICATION TO
36 BE PLACED ON THE LAND BY THE MUNICIPALITY IN CONJUNCTION WITH THE
37 ANNEXATION.

38 (2) If the county expressly approves, the municipality, without regard to
39 the provisions of Article 66B, § 4.05(a) of the Code, may place the annexed land in a
40 zoning classification that permits a land use substantially different from the use for
41 the land specified in the current and duly adopted master plan or general plan of the

1 county or agency having planning and zoning jurisdiction over the land prior to its
2 annexation.

3 19.

4 (n) The resolution to add to the corporate boundaries of a municipal
5 corporation shall provide generally that the persons residing in the area to be
6 annexed, and their property, shall be added to the corporate boundaries, generally
7 subject or not subject, as the case may be, to the provisions of the charter of the
8 municipal corporation; except that for stated periods and under specific conditions
9 provision may be made for special treatment of the residents and property in the area
10 to be annexed, as to rates of municipal [taxation and as to] TAXATION, municipal
11 services and facilities, AND ALLOWABLE USES OF LAND AND DENSITIES OF
12 DEVELOPMENT. No change shall be made in these provisions for special treatment for
13 stated periods and under specific conditions, except by resolution enacted in
14 accordance with the provisions and requirements of this section.

15 (T) IN ADDITION TO THOSE PURPOSES FOR WHICH A MUNICIPAL
16 CORPORATION AND A PROPERTY OWNER MAY ENTER INTO AN AGREEMENT THAT
17 ESTABLISHES TERMS AND CONDITIONS UNDER WHICH THE MUNICIPAL
18 CORPORATION WILL ANNEX LAND, A MUNICIPAL CORPORATION AND A PROPERTY
19 OWNER MAY ENTER INTO AN AGREEMENT THAT IMPOSES CONDITIONS ON THE
20 FUTURE USE AND DEVELOPMENT OF THE AREA TO BE ANNEXED FOR THE BENEFIT
21 OF THE AREA TO BE ANNEXED OR FOR THE PROTECTION OF NEARBY AREAS.
22 NOTWITHSTANDING THE PROVISIONS OF ARTICLE 66B OF THE CODE, THESE
23 AGREEMENTS MAY INCLUDE LIMITATIONS ON THE USES OF LAND OR DENSITIES OF
24 DEVELOPMENT OF THE ANNEXED AREA TO FEWER THAN ALL OF THE USES OR
25 DENSITIES OTHERWISE ALLOWED UNDER THE ZONING CLASSIFICATION TO BE
26 PLACED ON THE LAND BY THE MUNICIPAL CORPORATION IN CONJUNCTION WITH
27 THE ANNEXATION.

28

Article 66B - Land Use

29 4.01.

30 (c) (1) On the zoning or rezoning of any land under this article, a local
31 legislative body may impose any additional restrictions, conditions, or limitations
32 that the local legislative body considers appropriate, INCLUDING IN AN ANNEXATION
33 AGREEMENT LIMITATIONS ON THE USES OF LAND AND DENSITIES OF
34 DEVELOPMENT OTHERWISE ALLOWED IN THE ZONING DISTRICT WHERE THE LAND
35 IS LOCATED, to preserve, improve, or protect the general character and design of:

36 (i) The lands and improvements being zoned or rezoned; or

37 (ii) The surrounding or adjacent lands and improvements.

1 4.02.

2 (a) A local legislative body may divide the local jurisdiction into districts of
3 any number, shape, and area that the local legislative body considers best suited to
4 execute the purposes of this article.

5 (b) (1) Within the districts created, the local legislative body may regulate
6 and restrict the erection, construction, reconstruction, alteration, repair, or use of
7 buildings, structures, or land.

8 (2) [All] EXCEPT AS PROVIDED IN THIS ARTICLE OR OTHERWISE
9 AUTHORIZED BY LAW, ALL regulations shall be uniform for each class or kind of
10 development throughout each district, but the regulations in one district may differ
11 from those in other districts.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2004.